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NOTES ON LYSIAS.

By M. H. MORGAN.

VII, 39.

ὅσῳ γὰρ οἱ τοιοῦτοὶ εἰσιν ἐπαιτιώτατοι καὶ ἀπορώτατοι τῶν κινδύνων,
τοσοῦτῳ πάντες αὐτοὺς φεύγουσι μάλιστα.

The meaning of ἐπαιτιώτατοι has passed without mention in all the commentaries except those of Shuckburgh and Kocks. The German's note is 'um so mehr Schuld und Verlegenheit aus ihnen erwächst u. s. w.' Shuckburgh's is 'ἐπαίτιος properly means *held to blame for*, but here it appears to mean *calculated to attach blame*.' Both of these editors seem to have the right idea, for the point deserving of notice is that ἐπαίτιος is here active in sense. Hence the passage means 'the more blame such suits cause (that is, the more invidious they are) and the more perplexing they are, so much the more all avoid them.' On the face of it, there seems to be no reason why ἐπαίτιος should not have an active as well as a passive meaning (cf. ἐπιζήμιος, active, e.g. in Thuc. I, 32, passive in Plat. Legg. 765 A.); but the active sense is not entered in our dictionaries, and the passive so predominates that Shuckburgh is led to call it the 'proper' meaning. Yet the active occurs also in Thuc. V, 65, 2, τῆς ἐξ Ἀργεῶν ἐπαιτίου ἀναχωρήσεως, 'the retreat which had caused him (Agis) to be blamed' (Fowler, after Classen, who refers back to Thucydides's statement in 60, 2, ἐν αἰτίᾳ δ' εἶχον κατ' ἀλλήλους πολλῇ τὸν Ἀγιν, and to the same effect about the same retreat in 63, 1). These two passages from Lysias and Thucydides are the only ones in which the adjective is active or causal, and also the only ones in which it agrees with a common, not a proper, noun.

The word itself seems familiar enough, yet it is of somewhat rare occurrence. I find it in only nine¹ other places in the authors, and

¹ In Xen. Anab. III, 1, 5 I follow Hug in reading ὑπαίτιον.

in them all it is passive. Its earliest occurrence serves to show the meaning in all the rest. This is Hom. A 335 :

οὐ τί μοι ὕμνες ἐπαίτιοι, ἀλλ' Ἀγαμέμνων.

The others are Aesch. *Eum.* 465, 467 ; Eur. *Hipp.* 1383 ; Thuc. VI, 61, 1 ; Ap. Rhod. I, 414 ; II, 614 ; Plut. *Comp. Dion. c. Brut.* 2 ; Nonnus, *Dionys.* VII, 59.

There is, however, the following curious gloss in *Lex. Seguer.* (Bekker, *Anecd.* p. 188, 5) : ἐπαιτιώτατοι συκοφάνται. From the rarity of the adjective, occurring, as it apparently does, only once in the orators, one feels almost inclined to think that the gloss must refer to the passage in Lysias. Yet, if it does (and always provided that the gloss contains the right interpretation), τοιοῦτοι refers to συκοφάνται, and then it seems hardly possible to keep τῶν κινδύνων. There is a strong temptation to strike out these two words and to read ὅσῳ γὰρ οἱ τοιοῦτοί εἰσιν ἐπαιτιώτατοι καὶ ἀπορώτατοι, τοσοῦτω πάντες αὐτοὺς φεύγουσι μάλιστα, 'the more culpable and hard to deal with (for ἀπορώτατοι used of accusers in just this sense, cf. Plat. *Apol.* 18 D) such men are, so much the more all avoid them.' The rhythm of the sentence would then be a little better ; but for the absolute use of ἐπαίτιος (without a genitive or adverbial modifier) the only parallel is Thuc. V, 65, quoted above ; and there ἐπαίτιος is active.

XII.

The new Aristotle *On the Constitution of Athens* seems to me to make it clear that the twelfth oration was delivered by Lysias at the εὔθυναί of Eratosthenes, and not at a trial for murder. When Lysias returned to Athens from exile, he found there the very man through whose agency his brother Polemarchus had been delivered over to the Thirty for execution. Eratosthenes had not gone to Eleusis under the terms of the amnesty (stated in Arist. *Resp. Ath.* XXXIX) ; for, once there, he could not have been brought back to answer such a charge as Lysias had to make. Even if past murders are included under the provision in *Resp. Ath.* XXXIX, τὰς δὲ δίκας τοῦ φόνου εἶναι κατὰ τὰ πάτρια εἴ τις τινα αὐτόχειρ ἀπέκτεινεν ἢ ἔτρωσεν, this

would not apply to Eratosthenes; for he had not killed Polemarchus with his own hand. And however doubtful the rest of the text is here (I have followed Sandys), we must read *αὐτόχειρ* or a word of similar meaning, like *αὐτοχειρί* or *αὐτοχειρίᾳ*. Staying on, as Eratosthenes did in Athens, he must have known that charges would be brought against him by his enemies, and hence he would avail himself as soon as possible of that clause in the amnesty by which those of the Thirty who chose to submit their accounts of office, were no longer liable to attacks for the past. This would have been the easiest way once and for all to have done with those who had anything against him. Fuhr and Gebauer in their editions have held (as against Blass, *Att. Bereds.* I², p. 540 ff., Meier and Schoemann, p. 257 f., Weidner in his edition) that Eratosthenes was tried for murder at the Palladion. Their strongest argument is that there is no direct mention of *εὖθυναί* in the text. But, as Blass points out, the same sort of argument is equally strong against them; for Lysias, in the first part of his speech, makes almost as much of the pillage of his property as he does of the execution of his brother, and he does not even mention Polemarchus in his recapitulation at the end. To this argument I would add that the action of Archinus (*Arist. Resp. Ath.* XL) in persuading the Senate to put to death without a trial a person who had broken the oath *μὴ μνησικακεῖν*, and the salutary results of that action, make it extremely doubtful whether the partisans of the Thirty were at this time brought to court in any cases except those of *εὖθυναί*.

Since I have referred to the oath *μὴ μνησικακεῖν*, I may add that it has sometimes been thought (following Luebbert, *de amnestia*) that this oath was not sworn to until after the final overthrow of the Thirty in Eleusis, as described by Xen. *Hellen.* II, 4, 43. But Aristotle (*Resp. Ath.* XL), *διελύθησαν δὲ καὶ πρὸς τοὺς ἐν Ἐλευσίνι κατοικήσαντας ἔτει τρίτῳ μετὰ τὴν ἐξοίκησιν, ἐπὶ Ξεναϊέτου ἀρχοντος* shows that this final overthrow did not occur until two years (401-400 B.C.) after the democracy was restored. Hence Xenophon, unless absolutely at fault, can only refer to a reaffirmation of this oath. It cannot be supposed that the trial of Eratosthenes took place so late as this.

XII, 16.

τριῶν δὲ θυρῶν οὐσῶν.

It is impossible to identify these doors with certainty. We do not know how elaborate was the house of Damnippus inside, although we know that it ran from one street back to another (*ἀμφίθυρος*, § 15). Nor do we know where Lysias and Damnippus had their hurried talk (§ 14). They may have been in the *αἴλη*, for Lysias may simply have called D. to him as he stood among the other prisoners; or they may have stepped into one of the rooms which opened from the *αἴλη*; or they may even have passed the *μέταυλος θύρα*. Nothing is known of D., but he appears to have been trusted by the Thirty, as they were using his house, and he does not seem to have been a prisoner. Theognis and his men were guarding the front door (§ 16), and if they allowed Lysias to speak to D. at all they might have let them go together into a room. Or Lysias may have originally been thrust into a room. The editors of Lysias do not seem to appreciate the uncertainties of the case, and they are too offhand in their explanation of what these three doors were. The following all seem to me to be *possible* explanations:—

I. (Supposing that L. and D. talked in the *αἴλη*): 1, the *μέταυλος*; 2, door from the house to the garden, *κηπαία θύρα* (if D.'s house had a garden); 3, from the garden to the back street.

II. (The explanation of Fuhr and Frohberger): 1, the door of the room in which Lysias was imprisoned (but I see no reason for being sure that D.'s house had *doors* to the rooms instead of *curtains*; cf. Hermann, *Gr. Privatalt.*, 3d ed., p. 156, A. 1); 2, the *μέταυλος*; 3, door from house to street.

III. 1, *μέταυλος*; 2, door into one of the working-rooms, *ιστῶνες*; 3, door into the street.

IV. (If L. and D. had passed the *μέταυλος*): 1, into the *ιστῶνες*; 2, into the garden; 3, into the street.

XII, 44.

οὕτως . . . ἐπεβουλευέσθε ὅπως μήτ' ἀγαθὸν μηδὲν ψηφιεῖσθε πολλῶν
τε ἐνδεεῖς ἔσεσθε.

Weber (p. 163) takes the future indic. here as in a final clause ; hence it would fall under Goodwin, *Greek Moods and Tenses*, 324. But is it not rather an *object* clause? Cf. Aesch. III, 64 f, where we certainly have object clauses.

XII, 60.

μισθωσάμενοι δὲ πάντας ἀνθρώπους ἐπ' ὀλέθρῳ τῆς πόλεως καὶ ὅλας
πόλεις ἐπάγοντες καὶ τελευτῶντες Λακεδαιμονίους καὶ τῶν συμμάχων
ὁπόσους ἐδύναντο πείσαι κτλ.

Chapter XXXVIII of Aristotle's *Resp. Ath.* makes some corrections necessary in previous explanations of Lysias. Hitherto it has been supposed that πόλεις referred to the cities of the Spartan allies, who (except the Boeotians and Corinthians) followed Pausanias when his jealousy of Lysander led him to Athens (Xen. *Hellen.* II, 4, 30). But Aristotle says that the Ten¹ who succeeded the Thirty had already fallen before the arrival of Pausanias, and that they were succeeded by a second Ten, who had begun negotiations for peace with the patriots in Peiraeus before Pausanias came. (Lysias and the other authors do not mention this second Ten.²) The forces, therefore, that aided the first Ten were Lysander, with his mercenaries (Xen. *Hellen.* II. 4, 28 f., in number 1,000, according to Diod.

¹ Why was not Eratosthenes one of this first Ten (§ 55)? Was it because Phidon and his associates were not really of the party of Theramenes, but held still a middle ground between this party and that of Critias, while Eratosthenes belonged to Theramenes out and out? Or was it because Phidon and his colleagues were real followers of the Thirty, chosen by a trick on the people? If the latter is the true explanation, Eratosthenes, as a known opponent of the advanced party in the Thirty, would not have been chosen into this Ten.

² Their existence, however, is confirmed, as Sandys says, by Isocr. XVIII, 6, *Ῥίνων, εἰς τῶν δέκα γενόμενος*; for Aristotle mentions Rhinon as the leader of the second Ten.

Sic. XIV, 33), and his brother Libys with a fleet (Xen. *ibid.*; of 40 ships, Diod. Sic. *ibid.*). Aristotle does not here mention either of these by name, but says only that the first Ten were helped by Callibius and the Peloponnesians then at hand, together with some of the knights. Callibius was the harmost, sent with a garrison (of 700, according to Arist. XXXVII) to maintain the Thirty. By Πελοποννησίων τῶν παρόντων Aristotle may mean what was left of this garrison, or he may mean Lysander and Libys with their forces, or both. Lysias is evidently speaking loosely of what was done under the two Tens. For μισθωσάμενοι cannot truthfully be used of the second, nor πόλεις ἐπάγοντες of the first; while the words Λακεδαιμονίους καὶ τῶν συμμάχων . . . πείσαι belong properly to the expedition of Pausanias, who was not summoned by either Ten so far as we know (least of all by the first!). Finally, the following words, οὐ διαλλάξαι ἀλλ' ἀπολέσαι παρεσκευάζοντο can refer only to the first Ten, the second having actually begun to negotiate before Pausanias arrived. Hence the second may well be included under the ἄνδρες ἀγαθοί (παρασκευάζοντο τὴν πόλιν εἰ μὴ δι' ἄνδρας ἀγαθοὺς).

These ἄνδρες, according to the editors of Lysias, were the avowed or secret friends of Athens in Argos, Thebes, Corinth, and elsewhere, as well as all who were jealous of Lysander. But the patriots of Peiraeus too are meant, and now we must add the second Ten and their supporters in the ἄστυ.

XII, 65.

In speaking of the πρόβουλοι Lysias says that Theramenes στρατηγὸς ὑπ' αὐτῶν ἡρέθη; but it does not appear from any author that the πρόβουλοι had power to fill any of the offices. Theramenes, one of the Four Hundred, was nominated and chosen general by the Four Hundred themselves; Arist. *ibid.* XXX.

XII, 77.

τοῖς εἰρημένοις τρόποις ὑπ' ἐμοῦ αὐτοῖς αἴτιος γεγενημένος.

On the unusual order editors have compared Dem. XIX, 174, τὴν μὲν γραφεῖσαν ἐπιστολὴν ὑπ' ἐμοῦ. See also Frohberger's critical

note in his large edition. Lysias has the substantive following the participle in XIII, 43, τὰς γεγενημένας συμφορὰς τῇ πόλει. But in our passage I think that the unusual order of ἐπ' ἐμοῦ is to be defended, not by any general principle, but that it is here rendered necessary for clearness in order to separate αὐτοῖς, which follows, from τρόποις.

XVI, 6.

ἐπειδὴ γὰρ κατήλθετε, ἐψηφίσασθε τοὺς φυλάρχους ἀπενεγκεῖν τοὺς ἱππεύσαντας, ἵνα τὰς καταστάσεις ἀναπράττητε παρ' αὐτῶν.

Here the MS. has ἀναπράττηται, and the vulgate before Scheibe was ἀναπράττητε. Of recent editors only Jebb and Shuckburgh retain the vulgate, but they seem to me to be right, for it is near the reading of the MS., and in its tense (G., *M. T.* 87) it denotes the repeated number of cases which would arise after the report of the phylarchs had *once for all* (ἀπενεγκεῖν, *aorist*) been made. Lysias is very careful in observing this distinction between the present and the aor. subjv. or opt. The final clauses cited from him by Weber (*Entwick. der Absichtssätze*, p. 160 ff.) all bear out the rule in G., *M. T.* (save the only apparent exceptions in which εἶδητε and ἐπίστησθε appear). This is particularly well illustrated in XII, 72, and XXXII, 22, where both tenses are used in the same sentence. Fuhr reads ἀναπράξετε (schedae Brulart.), cf. Harp. s. v. κατάστασις; so Weber himself, p. 162. Sauppe and Weidner, ἀναπράξατε.

XVI, 7.

καίτοι ῥάδιον τοῦτο γινῶναι ὅτι ἀναγκαῖον ἦν τοῖς φυλάρχοις, εἰ μὴ ἀποδείξειαν τοὺς ἔχοντας τὰς καταστάσεις, αὐτοῖς ζημιοῦσθαι.

Here αὐτοῖς is dat., in spite of its nearness to the inf., because of φυλάρχοις, which belongs closely to the impersonal phrase ἀναγκαῖον ἦν; cf. Andoc. II, 7, and my note in *Harvard Classical Studies*, II, p. 58. Below, in ἐν ἐκείνοις δὲ τοὺς ἱππεύσαντας ἀναγκαῖον ἦν ὑπὸ τῶν φυλάρχων ἀπενεχθῆναι, the participle ἱππεύσαντας could not be dative, in spite of its nearness to the impersonal, on account of the pre-

ceding ἐκείνοις. The other instances of the use of this impersonal in Lysias are μοί ἐστι λέγειν, XVII, 1. and ἀναγκαιότατον ff. in XII, 9, where the μοι belongs to ἐδόκει. As for the impersonal phrase with ἀνάγκη, Krüger's remark (*Spr.* 62, 1, Anm. 3) that ἐστί very rarely occurs with this word, holds good for Lysias. Ἀνάγκη occurs twelve times; with ἐστί twice, XIII, 92, 44 (but in the latter there is no inf.); without ἐστί seven times, IV, 8, X, 5, XII, 1, XIX, 1, 3, XXII, 7, XXVI, 6; with ἦν twice, XIII, 79; XXXIII, 4; with γέγνηται once, XXXII, 1. Only in the last passage is the dative used with the phrase, and it is inserted between ἀνάγκη and its verb. Cf. the usage of Andocides, noted in the *Studies*, II, p. 57.